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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/900,935	07/09/2001	William C. Stumphauzer II	099908.00020	7475
31013	7590	03/16/2006	EXAMINER	
KRAMER LEVIN NAFTALIS & FRANKEL LLP INTELLECTUAL PROPERTY DEPARTMENT 1177 AVENUE OF THE AMERICAS NEW YORK, NY 10036			TRINH, TAN H	
			ART UNIT	PAPER NUMBER
			2684	

DATE MAILED: 03/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/900,935	Applicant(s) STUMPHAUZER, WILLIAM C.	
	Examiner TAN TRINH	Art Unit 2684	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12-12-2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-9, 11, 13-20, 23-25 and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Noreen (U.S. Pub. No. 20020183059).

Regarding claim 1, Noreen teaches an article of manufacture (see fig. 2), comprising: a computer usable medium having a computer readable program code embodied therein (see figs. 2-8, page 2, section [0012], page 3, section [0018] and pages 6-7, sections [0050 and 0055]), the computer readable program code including computer readable program code for receiving data relating to at least one of a plurality of broadcast channels (see page 6, sections [0052 and 0062]), the data including a content identification signal for each of the plurality of broadcast channels (see page 3, sections [0015-0017 and page 6, sections [0052 and 0062]); computer readable program code for processing the data as a function of a playlist identifying a prioritized list of user selections (see fig. 15, pages 10-11, section [0074-0077]); and computer readable program code for generating an output for automatically tuning a receiver to a specific broadcast channel if the content identification signal for one of the plurality of broadcast channels matches a selection in the prioritized list of user selections (see fig. 15, pages 10-12, section [0074-0084]).

Regarding claims 14 and 22, Noreen teaches a programmable receiver (see fig. 2), comprising: an antenna module receiving a plurality of broadcast channels (see fig. 2, broadcast radio receiver 116 antenna); and a receiver module coupled to the antenna module (see fig. 2, broadcast radio receiver 116 antenna), the receiver module receiving at least one of the plurality of broadcast channels (see page 11, sections [0076-0077]), the receiver module also receiving at least one content identification signal for each of the plurality of broadcast channels (see pages 6-7, sections [0052-0055]); wherein the receiver module includes a memory (see fig. 16, program segment association database 430 and page 9 section [0065]), the memory including a playlist identifying a prioritized list of selections and the receiver automatically tunes to a specific broadcast channel if the content identification signal for one of the plurality of broadcast channels matches a selection in the playlist stored in the memory (see page 9 section [0065] and page 12, sections [0083-0084]).

Regarding claims 2 and 29, Noreen teaches wherein the receiver is located in a vehicle (see fig. 1, receiver is located in a vehicle 104, abstract, lines 1-4).

Regarding claim 3. Noreen teaches wherein the vehicle is an automobile (see fig. 1, automobile 104).

Regarding claim 4. Noreen teaches wherein the plurality of broadcast channels are transmitted by at least one satellite (see fig. 1, satellite 106).

Regarding claim 5, Noreen teaches wherein the plurality of broadcast channels are transmitted by at least one terrestrial transmitter (see fig. 1, terrestrial transmitter 102).

Regarding claims 6 and 25, Noreen teaches wherein the playlist is created by a user accessing a website (see page 11, sections [0077-0078] and page 14, lines 1-20 on claim 13).

Regarding claims 7 and 23, Noreen teaches wherein the playlist is transferred from the website onto a portable storage medium and transferring the playlist into the memory from a portable storage medium (see page 8, section [0057]).

Regarding claim 8, Noreen teaches wherein the portable storage medium includes one of a PCMCIA card, smart card, flash card, memory stick, compact disk, or floppy disk (see fig. 7, pages 7-8, sections [0055 and 0057]).

Regarding claim 9, Noreen teaches wherein the data including the content identification signal is transmitted in at least one service channel containing the content identification signal for each of the plurality of broadcast channels (see pages 6-7, sections [0052-0055]).

Regarding claim 11, Noreen teaches wherein the user selections of the playlist have at least one associated parameter used to determine the broadcast channel selected by the receiver (see page 2, sections [0010-0012, and page 10, section [0074]).

Regarding claims 13 and 28, Noreen inherently teaches wherein the at least one associated parameter includes an interrupt permission (see page 1, section [0007] lines 25-29).

Regarding claim 15, Noreen teaches wherein the plurality of broadcast channels is transmitted from one of a satellite and a terrestrial transmitter (see fig. 1, satellite 106 and terrestrial transmitter 102).

Regarding claim 16, Noreen teaches wherein the plurality of broadcast channels are transmitted in a plurality of clusters (see fig. 10, page 8, section [0062]).

Regarding claim 17, Noreen teaches wherein each of the plurality of clusters includes a content identification signal for each of the plurality of clusters (see fig. 10, page 8, section [0062]).

Regarding claim 18, Noreen teaches wherein the content identification signal comprises a plurality of fields (see figs. 20-21, page 1, section [0006]).

Regarding claim 19, Noreen teaches wherein the plurality of fields comprise text fields including descriptions of content being played on each of the broadcast channels (see page 7, section [0055} and page 10, section [0074]).

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Regarding claim 20, Noreen teaches wherein the plurality of fields includes a description of a music selection (see page 7, section [0056]).

Regarding claim 24, Noreen teaches further comprising transferring the playlist into the memory using a wireless transmission method (see page 12, section [0084]).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 10, 12, 21- 22 and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noreen (U.S. Pub. No. 20020183059) in view of Marks (U.S. Pub. No. 20010053944).

Regarding claim 10, Noreen teaches wherein the system maintained by the broadcasters containing a play-list (see page 3, section [0014]). But Noreen fails to teach wherein the receiver scans the at least one service channel as a function of the playlist.

However, Marks teaches wherein the receiver the scans (search) the at least one service channel as a function of the playlist (see page 5, section [0050]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Noreen system and by the providing of the teaching of Marks on

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scans function to find the play-list thereto in order to provide user with selected the song on ply-list is easier.

Regarding claims 12 and 27, Noreen fails to teach wherein the at least one associated parameter includes a rank.

However, Marks teaches wherein the at least one associated parameter includes a rank (see page 9, sections [0091-0092]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Noreen system and by the providing of the teaching of Marks on rank the top channel or related to the talk show thereto in order to provide user with selected the top channel is easier.

Regarding claims 21 and 26, Noreen fails teach wherein the plurality of fields includes a description of a talk program and one parameter associated with each prioritized selection.

However, Marks teaches wherein the plurality of fields includes a description of a talk program (see fig. 1, on talk program and priority selection dial, page 3, section [0038] and page 4, sections [0046-0047]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Noreen system and by the providing of the teaching of Marks on top channel or related to the talk show thereto in order to provide user with selected the top channel list on the main list.



***Response to Arguments***

5. Applicant's arguments filed On 12-12-2005 have been fully considered but they are not persuasive.

Applicant argues that the reference of Noreen fails to teach the content information to select a channel to played to the user's play list. However, the examiner does not agree, since the reference of Noreen teaches that the content information and program segments selected by the subscriber, the content information identifying the program segment of the subscriber are forward to the broadcaster, such that the broadcaster may develop statistical profiles based on the user's content information (the a channel to played to the user's play list) (see Noreen on page 8, section [0058]). Therefore, the reference of Noreen is teaching the limitation of the claim:

Applicant also argues that the reference of Marks does not suggest the content information to select a channel to played to the user's play list. Since the reference of Noreen is teaching this limitation (see Noreen on page 8, section [0058] and above the argument).

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

**(571) 273-8300, (for Technology Center 2600 only)**

*Hand-delivered responses should be brought to the Customer Service Window (now located at the **Randolph Building, 401 Dulany Street, Alexandria, VA 22314**).*

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Trinh whose telephone number is (571) 272-7888. The examiner can normally be reached on Monday-Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiners supervisor, Anderson, Matthew D., can be reached at (571) 272-4177.

The fax phone number for the organization where this application or proceeding is assigned is **(571) 273-8300**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Technology Center 2600 Customer Service Office** whose telephone number is **(703) 306-0377**.

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9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tan H. Trinh  
Division 2618  
March 11, 2006



Anderson, Matthew D. (SPE 2618)